

# **Federal Certifications and Assurances**

**for**

## **WisDOT Grant Agreement**



**Calendar Year 2020**

**Prepared by the Wisconsin Department of Transportation  
Bureau of Transit, Local Roads, Railroads and Harbors**

March 17, 2020

**NOTE:** This booklet contains Certifications and Assurances that **must** be submitted for Federal funds.

## **Background Information**

The following Certifications and Assurances have been compiled for Federal Transit Administration (FTA) assistance programs applicable to WisDOT grant applications and awards.

A complete list of Fiscal Year 2020 Annual Certification and Assurances for FTA grants is available at

<https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/funding/grantee-resources/certifications-and-assurances/147956/fy20-certifications-and-assurances.pdf>

The Applicant/Recipient understands and agrees that not every provision of these certifications and assurances will apply to every Applicant/Recipient or every Project or Award for which FTA provides Federal funding. The type of project and the selection of the statute authorizing Federal financial assistance for the project will determine which provisions apply. The terms of these certifications and assurance reflect applicable requirements of FTA's enabling legislation currently in effect.

The Certifications and Assurances have been prepared in light of:

- ✓ Previous legislation that remains in effect, and
- ✓ Appropriations Acts or Continuing Resolutions funding the U.S. Department of Transportation during Federal Fiscal Year 2020.

The Applicant/Recipient understands and agrees that these Certifications and Assurances are *pre-award* requirements, generally imposed by Federal law or regulation, and do not include all Federal regulations that may apply to the Applicant/Recipient or its project. The FTA Master Agreement, which is updated annually and located on FTA's website, contains the current list of most requirements:

<https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/funding/grantee-resources/sample-fta-agreements/146616/fta-master-agreement-fy-2020.pdf>

Each Applicant/Recipient is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project or Award, itself, any Subrecipient, or any other Third-Party Participant in its Project, except as FTA determines otherwise in writing.

## **Instructions:**

**Step #1:** Read each Certification and Assurance.

**Step #2:** Initial each Certification and Assurance, indicating you have read and understand each one.

**Step #3:** Sign and date the certification statement.

**Step #4:** Submit the initialed and signed Certifications and Assurances signature (page 3) and signed and completed Labor Protection Warranty (page 4).

**Step #5:** Keep a copy of the Certifications and Assurances signature page and booklet for your records.

## 2020 FTA Certifications and Assurances

CATEGORY	SUBJECT	Initial or N/A for each
<b>CATEGORY A certification is for 5311 subrecipients only</b>		5311 Subrecipients
A-1	Labor Warranty <i>Note: Subrecipients are required to post the Special Section 5333(b) Labor Warranty language on an employee bulletin board.</i>	
<b>CATEGORY B certifications are required for every subrecipient</b>		<b>Initial each</b>
B-1	Standard Assurances	
B-2	U.S. OMB Assurances	
B-3	Nondiscriminatory Assurances	
B-4	Procurement	
B-5	Suspension and Debarment, Tax Liability and Felony Convictions	
<b>CATEGORY C certifications should be reviewed for applicability by every subrecipient</b>		<b>Initial or N/A</b>
C-1	Lobbying	
C-2	Private Sector Protections <ul style="list-style-type: none"> <li>○ Charter Bus</li> <li>○ School Bus</li> </ul>	
C-3	Transit Asset Management Plan	
C-4	Rolling Stock Buy America Reviews and Bus Testing	
C-5	Alcohol and Controlled Substances Testing	
C-6	Demand Responsive Service	
C-7	Construction Hiring Preferences	
C-8	Disadvantaged Business Enterprise Assurance	

### Chief Elected or Administrative Official Statement

The undersigned chief elected or administrative official hereby certifies that the Applicant/Recipient has read and understands the Certifications and Assurances initialed in the table above and further assures that, as a condition to receiving Federal financial assistance from the Wisconsin Department of Transportation, the Applicant/Recipient will comply with the requirements as specified in the attached Certifications and Assurances.

*The person whose signature appears below is authorized to sign this assurance on behalf of the grant Applicant/Recipient. While an attorney's signature is not required, the Wisconsin Department of Transportation encourages your counsel to participate in the review and signature of this document.*

**Grant Program:** \_\_\_\_\_

**Grant Applicant/Recipient:** \_\_\_\_\_

**Signature of Chief Elected or Administrative Official** \_\_\_\_\_

**Printed Name:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**LABOR PROTECTION – ASSURANCE OF COMPLIANCE WITH SPECIAL SECTION 5333(b), FORMERLY SECTION 13(c), WARRANTY**

**Note: Signature required for 5311 Subrecipients only.**

The Applicant/Recipient must comply with the labor protection provisions of 49 U.S.C. § 5333(b), formerly § 13(c). The requirements of 49 U.S.C. § 5333(b) can be met by assuring compliance with a special Warranty arrangement developed exclusively for application to the Section 5311 program. The Warranty binds the recipient to certain specified terms and conditions of the National (model) § 5333(b) Agreement executed July 23, 1975, which are incorporated into the Warranty by reference. The Special Section 5333(b) Warranty is contained in this document, as well as the applicable provisions of the National (model) § 5333(b) Agreement.

The Applicant/Recipient HEREBY AGREES THAT as a condition to receiving Federal financial assistance from the Wisconsin Department of Transportation, as authorized under § 5311 of the Federal Transit Act, it will comply with the terms and conditions of the Special Section 5333(b) Warranty and assume all legal and financial responsibility relative to compliance with the terms and conditions of the Warranty.

	Name of Applicant/Recipient: _____
	Date: _____
	By: _____ <i>(signature of chief elected or administrative official)</i>

**Instructions:** Identify a list of all existing providers of “public transportation” operating in the transportation service area of the recipient and all labor organizations representing the employees of such providers. The term "public transportation" means any transportation by bus, rail, or other conveyance, which provides either general or special service to the general public on a regular and continuing basis. "Public transportation" does not include the following: (1) school bus, sightseeing, or charter service; (2) exclusive ride taxi service; and (3) service to individuals or groups which excludes use by the general public.

Provider	Labor Union (if applicable) or specify N/A

## Special Section 5333(b) Labor Warranty

**Subrecipients are required to post the Special Section 5333(b) Labor Warranty in the contractor's workplace in a location where affected employees may view the Warranty.**

An Applicant/Recipient that receives an allocation of funds under 49 U.S.C. § 5311 shall make the following language part of the contract of assistance with its Third-Party Contractors.

### Terms and Conditions

(1) The Project shall be carried out in such a manner and upon such terms and conditions as will not adversely affect employees of the Recipient and of a surface public transportation provider in the transportation service area of the Project. It shall be an obligation of the Recipient to assure that any and all transportation services assisted by the Project are contracted for and operated in such a manner that they do not impair the rights and interests of affected employees.

The term "Project," as used herein shall not be limited to the particular facility, service, or operation assisted by Federal funds, but shall include any changes, whether organizational, operational, technological, or otherwise, which are a result of the assistance provided.

The phrase "as a result of the Project," shall, when used in this arrangement, include events related to the Project occurring in anticipation of, during, and subsequent to the Project and any program of efficiencies or economies related thereto; provided, however, that volume rises and falls of business, or changes in volume and character of employment brought about solely by causes other than the Project (including any economies or efficiencies unrelated to the Project) are not within the purview of this arrangement.

The term "service area," as used herein, includes the geographic area, over which the Project is operated and the area whose population is served by the Project, including adjacent areas affected by the Project.

The term "Union," as used herein, shall refer to any labor organization representing employees providing public transportation services in the service area of a Project assisted under the grant.

The term "employee," as used herein, shall include individual who may or may not be represented by a Union.

The term "Recipient," as used herein, shall refer to any employer(s) receiving transportation assistance under the grant.

The term "Grantee," as used herein, shall refer to the Applicant/Recipient for assistance; a Grantee which receives assistance is also a Recipient.

An employee covered by this arrangement, who is not dismissed, displaced or otherwise worsened in his/her position with regard to employment as a result of the Project, but who is dismissed, displaced or otherwise worsened solely because of the total or partial termination of the Project or exhaustion of Project funding shall not be deemed eligible for a dismissal or displacement allowance within the meaning of paragraphs (6) and (7) of this arrangement.

(2) Where employees of a Recipient are represented for collective bargaining purposes, all Project services provided by that Recipient shall be provided under and in accordance with any collective bargaining agreement applicable to such employees which is then in effect. This Arrangement does not create any collective bargaining relationship where one does not already exist or between any Recipient and the employees of another employer. Where the Recipient has no collective bargaining relationship with the Unions representing employees in the service area, the Recipient will not take any action which impairs or interferes with the rights, privileges, and benefits and/or the preservation or continuation of the collective bargaining rights of such employees.

(3) All rights, privileges, and benefits (including pension rights and benefits) of employees covered by this arrangement (including employees having already retired) under existing collective bargaining agreements or otherwise, or under any revision or renewal thereof, shall be preserved and continued; provided, however, that such rights, privileges and benefits which are not foreclosed from further bargaining and agreement by the Recipient and the Union involved to substitute other rights, privileges and benefits. Unless otherwise provided, nothing in this arrangement shall be deemed to restrict any rights the Recipient may otherwise have to direct the working forces and manage its business as it deemed best, in accordance with the applicable collective bargaining agreement.

(4) The collective bargaining rights of employees covered by this arrangement, including the right to arbitrate labor disputes and to maintain union security and checkoff arrangements, as provided by applicable laws, policies and/or existing collective bargaining agreements, shall be preserved and continued. Provided, however that this provision

shall not be interpreted so as to require the Recipient to retain any such rights which exist by virtue of a collective bargaining agreement after such agreement is no longer in effect.

The recipient agrees that it will bargain collectively with the Union or otherwise arrange for the continuation of collective bargaining, and that it will enter into agreements with the Union or arrange for such agreements to be entered into, relative to all subjects which are or may be proper subjects of collective bargaining. If, at any time, applicable law or contracts permit or grant to employees covered by this arrangement the right to utilize any economic measures, nothing in this arrangement shall be deemed to foreclose the exercise of such right.

(5)(a) The Recipient shall provide to all affected employees sixty (60) days' notice of intended actions which may result in displacement or dismissals or rearrangements of the working forces as a result of the Project. In the case of employees represented by a Union, such notice shall be provided by certified mail through representatives. The notice shall contain a full and adequate statement of the proposed changes, and an estimate of the number of employees affected by the intended changes, and the number and classifications of any jobs within the jurisdiction and control of the Recipient, including those in the employment of any entity bound by this arrangement pursuant to paragraph (21), available to be filled by such affected employees.

(5)(b) The procedures of this subparagraph shall apply to cases where notices involve employees represented by a Union for collective bargaining purposes. At the request of either the Recipient or the representatives of such employees, negotiations for the purposes of reaching agreement with respect to the application of the terms and conditions of this arrangement shall commence immediately. These negotiations shall include determining the selection of forces from among the mass transportation employees who may be affected as a result of the Project, to establish which such employees shall be offered employment for which they are qualified or can be trained. If no agreement is reached within twenty (20) days from the commencement of negotiations, any party to the dispute may submit the matter to dispute settlement procedures in accordance with paragraph (15) of this arrangement. Unless the parties otherwise mutually agree in writing, no change in operations, services, facilities or equipment within the purview of this paragraph (5) shall occur until after either: (1) an agreement with respect to the application of the terms and conditions of this arrangement to the intended change(s) is reached; 2) the decision of the arbitrator has been rendered pursuant to this subparagraph (b); or 3) an arbitrator selected pursuant to Paragraph (15) of this arrangement determines that the intended change(s) may be instituted prior to the finalization of implementing arrangements.

(5)(c) In the event of a dispute as to whether an intended change within the purview of this paragraph (5) may be instituted at the end of the 60-day notice period and before an implementing agreement is reached or a final arbitration decision is rendered pursuant to subparagraph (b), any involved party may immediately submit that issue to arbitration under paragraph (15) of this arrangement. In any such arbitration, the arbitrator shall rely upon standards and criteria utilized by the surface Transportation Board (and its predecessor agency, in the Interstate Commerce Commission) to address the 'preconsummation' issue in cases involving employee protections pursuant to 40 U.S.C § 11326 (or its predecessor, § 5(2)(f) of the Interstate Commerce Act, as amended). If the Recipient demonstrates, as a threshold matter in any such arbitration, that the intended action is a trackage rights, lease proceeding or similar transaction, and not a merger, acquisition, consolidation, or other similar transaction, the burden shall then shift to the involved labor organization(s) to prove that under the standards and criteria referenced above, the intended action should not be permitted to be instituted prior to the effective date of a negotiated or arbitrated implementing agreement.

If the Recipient fails to demonstrate that the intended action is a trackage rights, lease proceeding, or similar transaction, it shall be the burden of the Recipient to prove that under the standards and criteria referenced above, the intended action should be permitted to be instituted prior to the effective date of a negotiated or arbitrated implementing agreement. For purposes of any such arbitration, the time period within which the parties are to respond to the list of potential arbitrators submitted by the American Arbitration Association Service shall be five (5) days, the notice of hearing may be given orally or by facsimile, the hearing will be held promptly, the award of the arbitrator shall be rendered promptly and, unless otherwise agreed to by the parties, no later than fourteen (14) days from the date of closing the hearings, with five (5) additional days for mailing if post hearing briefs are required by either party. The intended change shall not be instituted during the pendency of any arbitration proceedings under this subparagraph (c).

(5)(d) If any intended change within the purview of this paragraph (5) is instituted before an implementing agreement is reached or a final arbitration decision is rendered pursuant to subparagraph (b), all employees affected shall be kept financially whole, as if the noticed and implemented action has not taken place, from the time they are affected until the effective date of an implementing agreement or final arbitration decision. This protection shall be in addition to the protective period defined in paragraph (14) of this arrangement, which period shall begin on the effective date of the implementing agreement or final arbitration decision rendered pursuant to the subparagraph (b).

An employee selecting, bidding on, or hired to fill any position established as a result of a noticed and implemented action prior to the consummation of an implementing agreement or final arbitration decision shall accumulate no benefits under this arrangement as a result thereof during that period prior to the consummation of an implementing agreement or final arbitration decision pursuant to subparagraph (b).

(6)(a) Whenever an employee, retained in service, recalled to service or employed by the Recipient pursuant to paragraphs (5), (7)(e), or (18) hereof is placed in a worse position with respect to compensation as a result of the

Project, the employee shall be considered a “displaced employee”, and shall be paid a monthly “displaced allowance” to be determined in accordance with this paragraph. Said displacement allowance shall be paid each displaced employee during the protective period so long as the employee is unable, in the exercise of his/her seniority rights, to obtain a position producing compensation equal to or exceeding the compensation the employee received in the position from which the employee was displaced, adjusted to reflect subsequent general wage adjustments, including cost of living adjustments were provided for.

(6)(b) The displacement allowance shall be a monthly allowance determined by computing the total compensation received by the employee, including vacation allowances and monthly compensation guarantees, and his/her total time paid for during the last twelve (12) months in which the employee performed compensated service more than fifty per centum of each such months, based upon the employee’s normal work schedule, immediately preceding the date of his/her displacement as a result of the Project, and by dividing separately the total compensation and the total time paid for by twelve, thereby producing the average monthly compensation and the average monthly time paid for. Such allowance shall be adjusted to reflect subsequent general wage adjustments, including cost of living adjustments were provided for.

If the displaced employee’s compensation in his/her current position is less in any month during his/her protective period than the aforesaid average compensation (adjusted to reflect subsequent general wage adjustments, including cost of living adjustments where provided for), the employee shall be paid the difference, less compensation for any time lost on account of voluntary absences to the extent that the employee is not available for service equivalent to his/her average monthly time, but the employee shall be compensated in addition thereto at the rate of the current position for any time worked in excess of the average monthly time paid for.

If a displaced employee fails to exercise his/her seniority rights to secure another position to which the employee is entitled under the then existing collective bargaining agreement, and which carries a wage rate and compensation exceeding that of the position which the employee elects to retain, the employee shall thereafter be treated, for the purposes of this paragraph, as occupying the position the employee elects to decline.

(6)(c) The displacement allowance shall cease prior to the expiration of the protective period in the event of the displaced employee’s resignation, death, retirement, or dismissal for cause in accordance

(7)(a) Whenever any employee is laid off or otherwise deprived of employment as a result of the Project, in accordance with any collective bargaining agreement applicable to his/her employment, the employee shall be considered a ‘dismissed employee’ and shall be paid a monthly dismissal allowance to be determined in accordance with this paragraph. Said dismissal allowance shall first be paid each dismissed employee on the thirtieth (30<sup>th</sup>) day following the day on which the employee is “dismissed” and shall continue during the protective period, as follows:

<b>Employee’s length of service prior to adverse effect</b>	<b>Period of Protection</b>
1 day to 6 years	Equivalent period
6 years or more	6 years

The monthly dismissal allowance shall be equivalent to one-twelfth (1/12<sup>th</sup>) of the total compensation received by the employee in the last twelve (12) months of his/her employment in which the employee performed compensation service more than fifty per centum of each such month based on the employee’s normal work schedule to the date on which the employee was first deprived of employment as a result of the Project. Such allowance shall be adjusted to reflect subsequent general wage adjustments, including cost of living adjustments where provided for.

(7)(b) An employee shall be regarded as deprived of employment and entitled to a dismissal allowance when the position the employee holds is abolished as a result of the Project, or when the position the employee holds is not abolished but the employee loses that position as a result of the exercise of seniority rights by an employee whose position is abolished as a result of the Project or as a result of the exercise of seniority rights by other employees brought about as a result of the Project, and the employee’s seniority rights, or through the Recipient, in accordance with subparagraph(e). In the absence of proper notice followed by an agreement or decision pursuant to paragraph (5) hereof, no employee who has been deprived of employment as a result of the Project shall be required to exercise his/her seniority rights to secure another position in order to qualify for a dismissal allowance hereunder.

(7)(c) Each employee receiving a dismissal allowance shall keep the Recipient informed as to his/her current address and the current name and address of any other person by whom the employee may be regularly employed or if the employee is self-employed.

(7)(d) The dismissal allowance shall be paid to the regularly assigned incumbent of the position abolished. If the position of an employee is abolished when the employee is absent from service, the employee will be entitled to the dismissal allowance when the employee is available for service. The employee temporarily filling said position at the time it was abolished will be given a

dismissal allowance on the basis of that position, until the regular employee is available for service, and thereafter shall revert to the employee's previous status and will be given the protections of the agreement in said position, if any are due him/her.

(7)(e) An employee receiving a dismissal allowance shall be subject to call to return to service by the employee's former employer; notification shall be in accordance with the terms of the then-existing collective bargaining agreement if the employee is represented by a union. Prior to such call to return to work by his/her employer, the employee may be required by the Recipient to accept reasonably comparable employment for which the employee can become qualified after a reasonable training or retraining period, provided it does not require a change in residence or infringe upon the employment rights of other employees under then-existing collective bargaining agreements.

(7)(f) When an employee who is receiving a dismissal allowance again commences employment in accordance with subparagraph (e) above, said allowance shall cease while the employee is so reemployed, and the period of time during which the employee is so reemployed shall be deducted from the total period for which the employee is entitled to receive a dismissal allowance. During the time of such reemployment, the employee shall be entitled to the protections of this arrangement to the extent they are applicable.

(7)(g) The dismissal allowance of any employee who is otherwise employed shall be reduced to the extent that the employee's combined monthly earnings from such other employment or self-employment, any benefits received from any unemployment insurance law, and his/her dismissal allowance exceed the amount upon which the employee's dismissal allowance is based. Such employee, or his/her union representative, and the Recipient shall agree upon a procedure by which the Recipient shall be kept currently informed of the earnings of such employee in employment other than with the employee's former employer, including self-employment, and the benefits received.

(7)(h) The dismissal allowance shall cease prior to the expiration of the protective period in the event of the failure of the employee without good cause to return to service in accordance with the applicable labor agreement, or to accept employment as provided under subparagraph (e) above, or in the event of the employee's resignation, death, retirement, or dismissal for cause in accordance with any labor agreement applicable to his/her employment.

(7)(i) A dismissed employee receiving dismissal allowance shall actively seek and not refuse other reasonable comparable employment offered him/her for which the employee is physically and mentally qualified and does not require a change in the employee's place of residence. Failure of the dismissed employee to comply with this obligation shall be grounds for discontinuance of the employee's allowance; provided that said dismissal allowance shall not be discontinued until final determination is made either by agreement between the Recipient and the employee or his/her representative, or by final arbitration decision rendered in accordance with paragraph (15) of this arrangement that such employee did not comply with this obligation.

(8) In determining length of service of a displaced or dismissed employee for purpose of this arrangement, such employee shall be given full service credits in accordance with the records and labor agreements applicable to him/her and the employee shall be given additional service credits for each month in which the employee receives a dismissal or displacement allowance as if the employment were continuing to perform services in his/her former position.

(9) No employee shall be entitled to either a displacement or dismissal allowance under paragraphs (6) or (7) hereof because of the abolishment of a position to which, as some future time, the employee could have bid, been transferred or promoted.

(10) No employee receiving a dismissal or displacement allowance shall be deprived, during the employee's protected period, of any rights, privileges, or benefits attaching to his/her employment, including, without limitation, group life insurance, hospitalization and medical care, free transportation for the employee and the employee's family, sick leave, continued status and participation under an disability or retirement program, and such other employee benefits as Railroad Retirement, Social Security, Workmen's Compensation, and unemployment compensation, as well as any other benefits to which the employee may be entitled under the same conditions as so long as such benefits continue to be accorded to the other employees of the bargaining unit, in active service or furloughed as the case may be.

(11)(a) Any employee covered by this arrangement who is retained in the service of his/her employer, or who is later restored to service after being entitled to receive a dismissal allowance, and who is required to change the point of his/her employment in order to retain or secure active employment with the Recipient in accordance with this arrangement, and who is required to move his/her place of residence, shall be reimbursed for all expenses of moving his/her household and other personal effects, for the traveling expenses for the employee and members of the employee's immediate family, including living expenses for the employee and the employee's immediate family, and for his/her own actual wage loss during the time necessary for such transfer and for a reasonable time thereafter, not to exceed five (5) working days. The exact extent of the responsibility of the Recipient under this paragraph, and ways and means of transportation, shall be agreed upon in advance between the Recipient and the affected employee or the employee's representatives.

(11)(b) If any such employee is laid off within three (3) years after changing his/her point of employment in accordance with paragraph (a) hereof, and elects to move his/her place of residence back to the original point of

employment, the Recipient shall assume the expenses, losses and costs of moving to the same extent provided in subparagraph (a) of this paragraph (11) and paragraph (12)(a) hereof.

(11)(c) No claim for reimbursement shall be paid under the provisions of this paragraph unless such claim is presented to the Recipient in writing within ninety (90) days after the date on which the expenses were incurred.

(11)(d) Except as otherwise provided in subparagraph (b), changes in places of residence, subsequent to the initial changes as a result of the Project, which are not a result of the Project but grow out of the normal exercise of seniority rights, shall not be considered within the purview of this paragraph.

(12)(a) The following conditions shall apply to the extent they are applicable in each instance to any employee who is retained in the service of the employer (or who is later restored to service after being entitled to receive a dismissal allowance), who is required to change the point of his/her employment as a result of the Project, and his thereby required to move his/her place of residence.

If the employee owns his/her own home in the locality from which the employee is required to move, the employee shall, at the employee's option, be reimbursed by the Recipient for any loss suffered in the sale of the employee's home for less than its fair market value, plus conventional fees and closing costs, such loss to be paid within thirty (30) days of settlement or closing on the sale of the home. In each case, the fair market value of the home in question shall be determined, as of a date sufficiently prior to the date of the Project, so as to be unaffected thereby. The Recipient shall, in each instance, be afforded an opportunity to purchase the home as such fair market value before it is sold by the employee to any other person and to reimburse the seller for his/her conventional fees and closing costs.

If the employee is under a contract to purchase his/her home, the Recipient shall protect the employee against the loss under such contract, and in addition, shall relieve the employee from any further obligation thereunder.

If the employee holds an unexpired lease of a dwelling occupied as the employee's home, the Recipient shall protect the employee from all loss and cost in securing the cancellation of said lease.

(12)(b) No claim for loss shall be paid under the provisions of this paragraph unless such claim is presented to the Recipient in writing within one year after the effective date of the change in residence.

(12)(c) Should a controversy arise in respect to the value of the home, the loss sustained in its sale, the loss under a contract for purchase, loss and cost in securing termination of a lease, or any other question in connection with these matters, it shall be decided through a joint conference between the employee, or his/her union, and the Recipient.

In the event they are unable to agree, the dispute or controversy may be referred by the Recipient or the union to a board of competent real estate appraisers selected in the following manner: one (1) to be selected by the representatives of the employee, and one (1) by the Recipient, and these two, if unable to agree within thirty (30) days upon the valuation, shall endeavor by agreement with ten (10) days thereafter to select a third appraiser or to agree to a method by which a third appraiser shall be selected, and failing such agreement, either party may request the State and local Board of Real Estate Commissioners to designate within ten (10) days a third appraiser, whose designation will be binding upon the parties and whose jurisdiction shall be limited to determination of the issues raised in this paragraph only. A decision of a majority of the appraisers shall be required and said decision shall be final, binding and conclusive. The compensation and expenses of the neutral appraiser including expenses of the appraisal board, shall be borne equally by the parties to the proceedings. All other expenses shall be paid by the party incurring them, including the compensation of the appraiser selected by such party.

(12)(d) Except as otherwise provided in paragraph (11)(b) hereof, changes in place of residence, subsequent to the initial changes as a result of the Project, which are not a result of the Project but grow out of the normal exercise of seniority rights, shall not be considered within the purview of this paragraph.

(12)(e) "Change of residence" means transfer to a work location which is either (A) outside a radius of twenty (20) miles of the employee's former work location and farther from the employee's residence than was his/her former work location, or (B) is more than thirty (30) normal highway route miles from the employee's residence and also farther from his/her residence than was the employee's former work location.

(13)(a) A dismissed employee entitled to protection under this arrangement may, at the employee's option within twenty-one (21) days of his/her dismissal, resign and (in lieu of all other benefits and protections provided in this arrangement) accept a lump sum payment computed in accordance with section (9) of the Washington Job Protection Agreement of May 1936:

Length of Service	Separation Allowance
1 year and less than 2 years	3 months' pay
2 years and less than 3 years	6 months' pay
3 years and less than 5 years	9 months' pay
5 years and less than 10 years	12 months' pay
10 years and less than 15 years	12 months' pay
15 years and over	12 months' pay

In the case of an employee with less than one year's service, five days' pay, computed by multiplying by 5 the normal daily earnings (including regularly scheduled overtime, but excluding other overtime payment(s) received by the employee in the position last occupied, for each month in which the employee performed service, will be paid as the lump sum.

Length of service shall be computed as provided in § 7(b) of the Washington Job Protection Agreement, as follows:

For the purposes of this arrangement, the length of service of the employee shall be determined from the date the employee last acquired an employment status with the employing carrier and the employee shall be given credit for one month's service for each month in which the employee performed any service (in any capacity whatsoever) and twelve (12) such months shall be credited as one year's service. The employment status of an employee shall not be interrupted by furlough in instance where the employee has a right to and does return to service when called. In determining length of service of an employee acting as an officer or other official representative of an employee organization, the employee will be given credit for performing service while so engaged on leave of absence from the service of a carrier.

(13)(b) One month's pay shall be computed by multiplying by 30 the normal daily earnings (including regularly scheduled overtime, but excluding other overtime payments) received by the employee in the position last occupied prior to time of the employee's dismissal as a result of the Project.

(14) Whenever used herein, unless the context requires otherwise, the term "protective period" means that period of time during which a displaced or dismissed employee is to be provided protection hereunder and extends from the date on which an employee is displaced or dismissed to the expiration of six (6) years therefrom, provide however, that the protective period for any particular employee during which the employee is entitled to receive the benefits of these provisions shall not continue for a longer period following the date the employee was displaced or dismissed than the employee's length of service, as shown by the records and labor agreements applicable to his/her employment prior to the date the employee's displacement or dismissal.

(15)(a) In the event that employee(s) are represented by a Union, any dispute, claim, or grievance arising from or relating to the interpretation, application or enforcement of the provisions of this arrangement, not otherwise governed by paragraph 12(c), the Labor-Management Relations Act, as amended, the Railway Labor Act, as amended, or by impasse resolution provisions in a collective bargaining or protective arrangement involving the Recipient and the Union, which cannot be settled by the parties thereto within thirty (30) days after the dispute or controversy arises, may be referred by any such party to any final and binding disputes settlement procedure acceptable to the parties.

In the event they cannot agree upon such procedure, the dispute, claim or grievance may be submitted at the written request of the Recipient or the Union to final and binding arbitration. Should the parties be unable to agree upon the selection of a neutral arbitrator within ten (10) days, any party may request the American Arbitration Association to furnish, from among arbitrators who are then available to serve, five (5) arbitrators from which a neutral arbitrator shall be selected. The parties shall, within five (5) days after the receipt of such list, determine by lot the order of elimination and thereafter each shall, in that order, alternately eliminate one name until only one name remains. The remaining person on the list shall be the neutral arbitrator. Unless otherwise provided, in the case of arbitration proceedings, under paragraph (f) of this arrangement, the arbitration shall commence within fifteen (15) days after selection or appointment of the neutral arbitrator, and the decision shall be rendered within forty-five (45) days after the hearing of the dispute has been concluded and the record closed. The decision shall be final and binding. All the conditions of the arrangement shall continue to be effective during the arbitration proceedings.

(15)(b) The compensation and expenses of the neutral arbitrator, and any other jointly incurred expenses, shall be borne equally by the Union(s) and Recipient, and all other expense shall be paid by the party incurring them.

(15)(c) In the event that employee(s) are not represented by a Union, any dispute claim, or grievance arising from or relating to the interpretation, application or enforcement of the provisions of this arrangement which cannot be settled by the Recipient and the employee(s) within thirty (30) days after the dispute or controversy arises, may be referred by any such party to any final and binding dispute settlement procedure acceptable to the parties or in the event the parties cannot agree upon such a procedure, the dispute or controversy may be referred to the Secretary of Labor for a final binding determination.

(15)(d) In the event of any dispute as to whether or not a particular employee was affected by the Project, it shall be the obligation of the employee or the representative of the employee to identify the Project and specify the pertinent facts of the Project relied upon. It shall then be the burden of the Recipient to prove that factors other than the Project affected the employee. The claiming employee shall prevail if it is established that the Project had an effect upon the employee even if other factors may also have affected the employee (see *Hodgson's Affidavit* in Civil Action No. 825-71).

(16) The Recipient will be financially responsible for the application of these conditions and will make the necessary arrangements so that any employee covered by this arrangement may file a written claim of its violation, through the Union, or directly if the employee is outside the bargaining unit with the Recipient within sixty (60) days of the date the employee is terminated or laid off as a result of the Project, or within eighteen (18) months of the date the employee's

position with respect to his/her employment is otherwise worsened as a result of the Project. In the latter case, if the events giving rise to the claim have occurred over an extended period, the 18-month limitation shall be measured from the last such event. No benefits shall be payable for any period prior to six (6) months from the date of the filing of any claim. Unless such claims are filed with the Recipient within said time limitations, the Recipient shall thereafter be relieved of all liabilities and obligations related to the claim.

The Recipient will fully honor the claim, making appropriate payments, or will give notice to the claimant or his/her representative on the basis for denying or modifying such claim, giving reasons therefore. If the Recipient fails to honor such claim, the Union or non-bargaining unit employee may invoke the following procedures for further joint investigation of the claim by giving notice in writing. Within ten (10) days from the receipt of such notice, the parties shall exchange such factual material as it may be requested of them relevant to the disposition of the claim and shall jointly take such steps as may be necessary or desirable to obtain from any Third-Party such additional factual materials as may be relevant. In the event the Recipient rejects the claim, the claim may be processed to arbitration as hereinabove provided by paragraph (15).

(17) Nothing in this arrangement shall be construed as depriving any employee of any rights or benefits which such employee may have under existing employment or collective bargaining agreements or otherwise; provided that there shall be no duplication of benefits to any employee, and, provided further, that any benefit under this arrangement shall be construed to include the conditions, responsibilities, and obligations accompanying such benefit. This arrangement shall not be deemed a waiver of any rights of any Union or of any represented employee derived from any other agreement or provision of Federal, state, or local law.

(18) During the employee's protective period, a dismissed employee shall, if the employee so requests, in writing, be granted priority of employment or reemployment to fill any vacant position within the jurisdiction and control of the Recipient reasonably comparable to that which the employee held when dismissed, included those in the employment of any entity bound by this arrangement pursuant to paragraph (21) herein, for which the employee is, or by training or retraining can become, qualified; not, however, in contravention of collective bargaining arrangements related thereto.

In the event such employee requests such training or retraining to fill such a vacant position, the Recipient shall provide for such training or retraining at no cost to the employee. The employee shall be paid the salary or hourly rate provided for in the personnel policies or practices for such position, plus any displacement allowance to which the employee may otherwise be entitled. If such dismissed employee who has made such request fails, without good cause, within ten (10) days to accept an offer of a position comparable to that which the employee held when dismissed for which the employee was qualified, or for which the employee has satisfactorily completed such training, the employee shall, effective at the expiration of such ten-day period, forfeit all rights and benefits under this arrangement.

As between employees who request employment pursuant to this paragraph, the following order where applicable shall prevail in hiring such employees:

- (a) Employees in the craft or class of the vacancy shall be given priority over employees without seniority or such craft or class;
- (b) As between employees having seniority in the craft or class of the vacancy, the senior employees, based upon their service in that craft or class, as shown on the appropriate seniority roster, shall prevail over junior employees;
- (c) As between employees not having seniority in the craft or class of the vacancy, the senior employees, based upon their service in the crafts or classes in which they do have seniority as shown on the appropriate seniority rosters, shall prevail over junior employees.

(19) The Recipient will post, in a prominent and accessible place, a notice stating that the Recipient has received Federal assistance under the Federal Transit statute and has agreed to comply with the provisions of 49 U.S.C. § 5333(b). This notice shall also specify the terms and conditions set forth herein for the protection of employees. The Recipient shall maintain and keep on file all relevant books and records in sufficient detail as to provide the basic information necessary to the proper application, administration, and enforcement of this arrangement and to the proper determination of any claims arising thereunder.

(20) In the event the Project is approved for assistance under the statute, the foregoing terms and conditions shall be made part of the contract of assistance between the Federal government and the Applicant/Recipient for Federal funds and between the Applicant/Recipient and any recipient of Federal funds; provided, however, that this arrangement shall not merge into the contract of assistance, but all be independently binding and enforceable by and upon the parties thereto, and by any covered employee or his/her representative, in accordance with its terms, nor shall any other employee protective agreement merge into this arrangement, but each shall be independently binding and enforceable by and upon the parties thereto, in accordance with its terms.

(21) This arrangement shall be binding upon the successors and assigns of the parties hereto, and not provisions, terms, or obligations herein contained shall be affected, modified, altered, or changed in any respect whatsoever by reason of the arrangement made by or for the Recipient to manage and operate the system.

Any person, enterprise, body, or agency, whether publicly- or privately- owned, which shall undertake the management, provision and/or operation of the Project services or the Recipient's transit system, or any part or portion thereof, under contractual arrangements of any form with the Recipient, its successors or assigns, shall agree to be bound by the terms of this arrangement and accept the responsibility with the Recipient for full performance of these conditions. As a condition precedent to any such contractual arrangements, the Recipient shall require such person, enterprise, body or agency to so agree.

(22) In the event of the acquisition, assisted with Federal funds, of any transportation system or services, or any part of portion thereof, the employees of the acquired entity shall be assured employment, in comparable positions, within the jurisdiction and control of the acquiring entity, including positions in the employment of any entity bound by this arrangement pursuant to paragraph (21). All persons employed under the provisions of this paragraph shall be appointed to such comparable positions without examination, other than that required by applicable Federal, state or Federal law or collective bargaining agreement, and shall be credited with their years of service for purposes of seniority, vacations, and pensions in accordance with the records of their former employer and/or any applicable collective bargaining agreements.

(23) The employees covered by this arrangement shall continue to receive any applicable coverage under Social Security, Railroad Retirement, Workmen's Compensation, unemployment compensation, and the like. In no event shall benefits be worsened as a result of the Project.

(24) In the event any provision of this arrangement is held to be invalid, or otherwise unenforceable under the Federal, state, or local law, in the context of a particular Project, the remaining provisions of this arrangement shall not be affected and the invalid or unenforceable provision shall be renegotiated by the Recipient and the interested Union representatives, if any, of the employees involved for purpose of adequate replacement under § 5333 (b). If such negotiation shall not result in mutually satisfactory agreement any party may invoke the jurisdiction of the Secretary of Labor to determine substitute fair and equitable employee protective arrangements for application only to the particular Project, which shall be incorporated in this arrangement only as applied to that Project, and any other appropriate action, remedy, or relief.

(25) If any employer of the employees covered by this arrangement shall have rearranged or adjusted its forces in anticipation of the Project, with the effect of depriving an employee of benefits to which the employee should be entitled under this arrangement, the provisions of this arrangement shall apply to such employee as of the date when he employee was so affected.

## B-1

### STANDARD ASSURANCES

The Applicant/Recipient assures that it:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970, relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 CFR Part 900, Subpart F).

## B-2

### U.S. OMB ASSURANCE

*These assurances are consistent with U.S. Office of Management and Budget's (OMB) assurances required in U.S. OMB's standard form F-424B.*

#### **Statutory and Regulatory Requirements:**

The Applicant/Recipient assures that it will comply, as applicable, with:

1. The requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("Uniform Act") (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases. The requirements of the Uniform Act are effectuated by U.S. DOT regulation 49 C.F.R. Part 24.
2. Provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal Funds.
3. Provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted constructed subagreements.
4. Flood insurance purchase requirements of 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurances if the total cost of insurable construction and acquisition is \$10,000 or more.
5. Environmental standards which may be prescribed pursuant to the following:
  - (a) Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514;
  - (b) Notification of violating facilities pursuant to EO 11738;

- (c) Protection of wetlands pursuant to EO 11990;
  - (d) Evaluation of flood hazards in floodplains in accordance with EO 11988;
  - (e) Assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.);
  - (f) Conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.);
  - (g) Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and
  - (h) Protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
6. The Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic river system.
  7. Assist with the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470), EO 11593 (identification and protection of historic priorities), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C §§469a-1 et seq.).
  8. P.L 93-348 regarding the protection of human subjects involved in research, development and related activities supported by this award of assistance.
  9. Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C §§2131 et seq.) pertaining to the care, handling and treatment of warm blooded animals held for research, teaching or other activities supported by this award of assistance.
  10. Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
  11. Required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and 2 C.F.R. Part 200, Subpart F, "Audit Requirements", as adopted and implemented by U.S. DOT at 2 C.F.R. Part 1201.
  12. All applicable requirements of all other Federal laws, executive orders, regulations, and policies governing the program under which it is applying for assistance.
  13. Requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. §7104) which prohibits grant award recipients or a subrecipient from:
    - (a) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect;
    - (b) Procuring a commercial sex act during the period of time that the award is in effect; or
    - (c) Using forced labor in the performance of the award or subawards under the award.

**Construction Project Specifics:**

The Applicant/Recipient assures that it:

1. Will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and the facilities without permission and instructions from the awarding agency; will record the Federal awarding agency directives; and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project.
2. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review, and approval of construction plans and specifications.
3. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that complete work confirms with the approved plans and specifications and will furnish progressive reports and such other information as may be required by the assistance awarding agency or State.

## B-3

### NONDISCRIMINATION ASSURANCE

The Applicant/Recipient assures that it will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to:

1. Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color, or national origin as effectuated by U.S. DOT regulation 49 C.F.R. Part 21;
2. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex, as effectuated by U.S. DOT regulation 49 C.F.R. Part 25;
3. Section 5332 of the Federal Transit Law (49 U.S.C. § 5332), which prohibits any person being excluded from participating in, denied a benefit of, or discriminated against under, a project, program, or activity receiving financial assistance from FTA because of race, color, regional, national origin, sex, disability, or age.
4. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps, as effectuated by U.S. DOT regulation 49 C.F.R. Part 27.
5. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age.
6. The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse.
7. The comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism.
8. Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records.
9. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing.
10. Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and,
11. The requirements of any other nondiscrimination statute(s) which may apply to the application.

## B-4

### PROCUREMENT

*Each Applicant/Recipient that is a State, local or Indian tribal government seeking federal assistance to acquire property or services in support of its project must provide the following certification.*

The Applicant/Recipient agrees to comply with:

1. U.S. DOT regulations, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR part 1201, which incorporates by reference U.S. OMB regulatory guidance, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR part 200, particularly 2 CFR §200.317-200.326 "Procurement Standards";
2. Federal laws, regulations and requirements applicable to FTA procurements; and
3. The latest edition of FTA Circular 4220.1 and other applicable federal guidance.

## **Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment**

The Applicant/Recipient certifies that, consistent with Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232 (Aug. 13, 2018), beginning on and after August 13, 2020, it will not use assistance awarded by FTA to procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract (or extend or renew a contract) to procure or obtain "covered telecommunications equipment or services" (as that term is defined in Section 889 of the Act) if such equipment or services will be used as a substantial or essential component of any system or as critical technology as part of any system.

### **B-5**

## **SUSPENSION AND DEBARMENT and TAX LIABILITY and FELONY CONVICTIONS**

*Pursuant to Executive Order 12549, FTA requires each applicant to certify as to its tax and felony status.*

### **Suspension and Debarment**

The Applicant/Recipient certifies that:

1. It will comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR part 180
2. To the best of its knowledge and belief that, it, and each of its principals:
  - (a) Is not presently debarred, suspended, proposed for debarment, declared ineligible, voluntarily or involuntarily excluded from covered transactions by and Federal department or agency;
  - (b) Has not, within the preceding three-years, been convicted of or had a civil judgment rendered against him or her for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty;
  - (c) It is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any offense listed in the preceding section of this certification;
  - (d) Has not, within the preceding three years, had one or more public transactions (Federal, State, or local) terminated for cause or default.

### **Tax Liability and Felony Convictions**

If the applicant is a private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association, the applicant certifies that:

1. It has no unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
2. It has not been convicted of a felony criminal violation under any Federal law within the preceding 24 months.

**LOBBYING**

*If the applicant will apply for a grant or cooperative agreement exceeding \$100,000, or a loan, line of credit, loan guarantee, or loan insurance exceeding \$150,000, it must make the following certification and, if applicable, make a disclosure regarding the applicant's lobbying activities. This certification is required by 49 C.F.R. § 20.110 and app. A to that part.*

*This certification does not apply to an applicant that is an Indian Tribe, Indian organization, or an Indian tribal organization exempt from the requirements of 49 C.F.R. Part 20.*

**Certification for Contracts, Grants, Loans, and Cooperative Agreements.**

The Applicant/Recipient certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**Statement for Loan Guarantees and Loan Insurance.**

The Applicant/Recipient states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## C-2

### PRIVATE SECTOR PROTECTIONS

*Each Applicant/Recipient that is a state, local government or Indian tribal government that seeks FTA assistance to acquire the property of a private transit operator or operate public transportation in competition with or in addition to a public transportation operator must provide the following certification, except as FTA determines otherwise in writing.*

To facilitate FTA's ability to make the findings required by 49 U.S.C. § 5323(a)(1), the Applicant/Recipient certifies that:

1. It has or will have:
  - (a) Determined that the federal assistance it has requested is essential to carrying out its Program of Projects as required by 49 U.S.C. §§ 5303, 5304, and 5306;
  - (b) Provided for the participation of private companies engaged in public transportation to the maximum extent feasible; and
  - (c) Paid just compensation under state or local law to the company for any franchise or property acquired.
2. It has completed the actions listed above before it:
  - (a) Acquires the property or an interest in the property of a private provider of public transportation, or
  - (b) It operates public transportation equipment or facilities:
    - (1) In competition with transportation service provided by an existing public transportation operator or
    - (2) In addition to transportation service provided by an existing public transportation operator.

*If the applicant will apply for funds that it will use to acquire or operate public transportation facilities or equipment, the applicant must make the following certification regarding protections for the private sector.*

#### 4.1. Charter Service Agreement.

*To enforce the provisions of 49 U.S.C. § 5323(d), FTA's charter service regulation requires each applicant seeking assistance from FTA for the purpose of acquiring or operating any public transportation equipment or facilities to make the following Charter Service Agreement. 49 C.F.R. § 604.4.*

The Applicant/Recipient agrees that it, and each of its subrecipients, and Third-Party contractors at any level who use FTA-funded vehicles, may provide charter service using equipment or facilities acquired with Federal assistance authorized under the Federal Transit Laws only in compliance with the regulations set out in 49 C.F.R. Part 604, the terms and conditions of which are incorporated herein by reference.

## 4.2. School Bus Agreement.

*To enforce the provisions of 49 U.S.C. § 5323(f), FTA's school bus regulation requires each applicant seeking assistance from FTA for the purpose of acquiring or operating any public transportation equipment or facilities to make the following agreement regarding the provision of school bus services. 49 C.F.R. § 605.15.*

1. If the applicant is not authorized by the FTA Administrator under 49 C.F.R. § 605.11 to engage in school bus operations, the applicant agrees and certifies as follows:
  - (a) The applicant and any operator of project equipment agrees that it will not engage in school bus operations in competition with private school bus operators.
  - (b) The applicant agrees that it will not engage in any practice which constitutes a means of avoiding the requirements of this agreement, part 605 of the Federal Mass Transit Regulations, or section 164(b) of the Federal-Aid Highway Act of 1973 (49 U.S.C. 1602a(b)).
2. If the applicant is authorized or obtains authorization from the FTA Administrator to engage in school bus operations under 49 C.F.R. § 605.11, the applicant agrees as follows:
  - (a) The applicant agrees that neither it nor any operator of project equipment will engage in school bus operations in competition with private school bus operators except as provided herein.
  - (b) The applicant, or any operator of project equipment, agrees to promptly notify the FTA Administrator of any changes in its operations which might jeopardize the continuation of an exemption under § 605.11.
  - (c) The applicant agrees that it will not engage in any practice which constitutes a means of avoiding the requirements of this agreement, part 605 of the Federal Transit Administration regulations or section 164(b) of the Federal-Aid Highway Act of 1973 (49 U.S.C. 1602a(b)).
  - (d) The applicant agrees that the project facilities and equipment shall be used for the provision of mass transportation services within its urban area and that any other use of project facilities and equipment will be incidental to and shall not interfere with the use of such facilities and equipment in mass transportation service to the public.

### C-3

## TRANSIT ASSET MANAGEMENT PLAN

*If the applicant owns, operates, or manages capital assets used to provide public transportation, the following certification is required by 49 U.S.C. § 5326(a).*

The Applicant/Recipient certifies that it is in compliance with 49 C.F.R. Part 625.

## ROLLING STOCK BUY AMERICA REVIEWS and BUS TESTING

### 6.1. Rolling Stock Buy America Reviews.

*If the applicant will apply for an award to acquire rolling stock for use in revenue service, it must make this certification. This certification is required by 49 C.F.R. § 663.7.*

The Applicant/Recipient certifies that it will conduct or cause to be conducted the pre-award and post-delivery audits prescribed by 49 C.F.R. Part 663 and will maintain on file the certifications required by Subparts B, C, and D of 49 C.F.R. Part 663.

### 6.2. Bus Testing.

*If the applicant will apply for funds for the purchase or lease of any new bus model, or any bus model with a major change in configuration or components, the applicant must make this certification. This certification is required by 49 C.F.R. § 665.7.*

The Applicant/Recipient certifies that the bus was tested at the Bus Testing Facility and that the bus received a passing test score as required by 49 C.F.R. Part 665. The applicant has received or will receive the appropriate full Bus Testing Report and any applicable partial testing reports before final acceptance of the first vehicle.

## ALCOHOL AND CONTROLLED SUBSTANCES TESTING

*An Applicant/Recipient that seeks federal assistance to operate transit service must comply with the alcohol and controlled substance testing requirements of 49 U.S.C. § 5331 and its implementing regulation and provide the following certification, as required by 49 C.F.R. § 655.83.*

**Note:**

**WisDOT requires 5311 recipients to join the statewide Drug and Alcohol Testing Consortium.**

**Recipients solely engaged in JARC or 5310 capital activities are exempt from drug and alcohol testing applicability as this is not currently considered a safety sensitive function per 49 CFR 655.4.**

**Contact the WisDOT Transit Section for more information.**

As required by 49 U.S.C § 5331, and FTA regulations "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR part 655., subpart I, specifically 49 CFR § 655.83 the Applicant/Recipient certifies:

1. The Applicant/Recipient and its contractors to which these testing requirements apply have established and implemented an alcohol misuse testing program and a controlled substance testing program.
2. The Applicant/Recipient and its contractors to which these testing requirements apply have complied or will comply with all applicable requirements of 49 CFR part 655 to the extent those regulations are consistent with 49 U.S.C. § 5331, and
3. Consistent with U.S. DOT Office of Drug and Alcohol Policy and Compliance Notice, issued October 22, 2009, if the Applicant/Recipient or its contractors to which these testing requirements apply reside in a State that permits marijuana use for medical or recreational purposes, the

Applicant/Recipient and its contractors to which these testing requirements apply have complied or will comply with the Federal controlled substance testing requirements of 49 CFR part 655.

## C-6

### DEMAND RESPONSIVE SERVICE

*If the applicant operates demand responsive service and will apply for an award to purchase a non-rail vehicle that is not accessible within the meaning of 49 C.F.R. Part 37, it must make the following certification. This certification is required by 49 C.F.R. § 37.77.*

The Applicant/Recipient certifies that the service it provides to individuals with disabilities is equivalent to that provided to other persons. A demand responsive system, when viewed in its entirety, is deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals with respect to the following service characteristics:

1. Response time;
2. Fares;
3. Geographic area of service;
4. Hours and days of service;
5. Restrictions or priorities based on trip purpose;
6. Availability of information and reservation capability; and
7. Any constraints on capacity or service availability.

## C-7

### CONSTRUCTION HIRING PREFERENCES

*If the Applicant/Recipient will ask FTA to approve the use of geographic, economic, or any other hiring preference not otherwise authorized by law on any contract or construction project to be assisted with an award from FTA, it must make the following certification. This certification is required by the Consolidated Appropriations Act, 2020, Pub. L. 116-94, div. H, title I, § 191.*

#### Hiring Preferences

The Applicant/Recipient certifies the following:

1. That except with respect to apprentices or trainees, a pool of readily available but unemployed individuals possessing the knowledge, skill, and ability to perform the work that the contract requires resides in the jurisdiction;
2. That the applicant will include appropriate provisions in its bid document ensuring that the contractor does not displace any of its existing employees in order to satisfy such hiring preference; and
3. That any increase in the cost of labor, training, or delays resulting from the use of such hiring preference does not delay or displace any transportation project in the applicable Statewide Transportation Improvement Program or Transportation Improvement Program.

## DISADVANTAGED BUSINESS ENTERPRISE ASSURANCE

The Applicant/Recipient will adhere to the following assurance language:

Disadvantaged Business Enterprise (DBE) provisions apply to U.S. DOT (including FTA) assisted contracts. As a recipient of FTA planning, capital, and/or operating assistance with contracting opportunities in excess of \$250,000 (excluding transit vehicle purchases), WisDOT has a written DBE Program Plan to address the requirements. The WisDOT DBE program addresses FTA funded contracting activities conducted by WisDOT as well as those of its subrecipients.

As a subrecipient of FTA assistance, the DBE requirements apply to subrecipients. The following assurance applies to subrecipient grant agreements:

1. The Wisconsin Department of Transportation shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT- assisted contracts. The recipient's DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Wisconsin Department of Transportation of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer to the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. § 3801 et seq.).

In addition, each contract a subrecipient signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following clauses:

1. The contractor or subcontractor shall not discriminate based on race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:
  - (a) Withholding monthly progress payments;
  - (b) Assessing sanctions;
  - (c) Liquidated damages, and/or;
  - (d) Disqualifying the contractor from future bidding as non-responsible.
2. The contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed in its written documentation of its contract commitment to the recipient unless the contractor obtains written consent from the recipient.
3. The contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the DBEs as listed in its written documentation of its commitment to the recipient unless the contractor obtains written consent from the recipient.
4. The contractor will be required to report its DBE participation obtained throughout the period of performance.
5. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 calendar days after the contractor's receipt of payment for that work from the recipient. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 calendar days after incremental acceptance of the subcontractor's work by the recipient and contractor's receipt of the partial retainage payment related to the subcontractor's work.

6. The contractor shall not terminate a DBE subcontractor listed in its written documentation of its commitment to the recipient to use a DBE subcontractor (or an approved substitute DBE firm) without the recipient's prior written consent. This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.
7. The contractor must promptly notify the recipient whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the recipient.